

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
TENNESSEE EASTERN DIVISION**

Christina Ray,)
)
)
Plaintiff,)
) **Civil Action No.**
v.)
)
ELS, LLC,)
)
Defendant.)

**VERIFIED COMPLAINT
FOR VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

COMES NOW Plaintiff Christina Ray (hereinafter, “Plaintiff” or “Mrs. Ray”), by and through counsel, and for her Complaint against ELS, LLC states and alleges as follows:

NATURE OF THE COMPLAINT

1. Plaintiff brings this action against Defendant under federal law, specifically the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*
2. Plaintiff brings this action against Defendant for unpaid overtime compensation and related penalties and damages
3. Defendant’s payroll policies and practices were and are in direct violation of the FLSA, 29 U.S.C. § 201, *et seq.*
4. For said violations, Plaintiff seeks declaratory relief; backpay for work hours for which she was unpaid or underpaid, including overtime premiums for all hours worked over

forty hours in a work week; liquidated and/or other damages as permitted by applicable law; and attorney's fees, costs, and expenses incurred in this action.

PARTIES

5. Plaintiff Christina Ray is an adult resident of Mason, Tipton County, Tennessee.
6. Defendant ELS, LLC is a North Carolina-based entity doing business in Memphis, Tennessee, and may be reached for service through its registered agent, Brett Butts, 4292 East Raines Road, Memphis, TN 38118-6942.

JURISDICTION AND VENUE

7. This Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this case is brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*
8. Defendant ELS, LLC is a legal entity incorporated in the State of North Carolina with its principal office in Memphis, Tennessee. It is subject to service of process via agent in Tennessee, and does business in the state of Tennessee. Therefore, this Court has personal jurisdiction over Defendant ELS, LLC.
9. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b) because a substantial part of the events giving rise to Plaintiff Christina Ray's claims occurred in this District.

FACTUAL BACKGROUND

10. Plaintiff Christina Ray worked for Defendant from October 25, 2021 until June 14, 2022.
11. Mrs. Ray was initially assigned to work in Defendant's customer service department
12. After approximately four weeks, Mrs. Ray was transferred to a dispatcher position.
13. Mrs. Ray's schedule officially described her as working from 7:00 A.M. to 4:00 P.M., Monday through Friday, with a one-hour lunch period – an eight-hour day.

14. In reality, Mrs. Ray would start working around 6:00 A.M. and would continue working until 5:00 or 6:00 P.M., an eleven- or twelve-hour day.
15. Additionally, when Mrs. Ray was finished with her working hours, she would often still be on the phone after hours until about 8:00 p.m. or later.
16. Furthermore, Mrs. Ray would work on the weekend. On the weekend, she worked an average of almost eleven hours per day worked.
17. When Mrs. Ray worked on the weekend, she was paid a flat rate of \$250 per day.
18. On average, Mrs. Ray worked at least 54 hours per week, plus her weekend work.
19. Nevertheless, she was never paid overtime for hours worked more than forty in a workweek.
20. Mrs. Ray was paid a salary of \$40,000 regardless of the number of hours worked, although her work duties did not qualify her for overtime exemption under the Fair Labor Standards Act.
21. When Mrs. Ray asked ELS management why she was not being paid an overtime premium, she was told that it was because she was on salary.
22. On June 3, 2022, Mrs. Ray had surgery on her back.
23. After this surgery, Mrs. Ray was out of work for two days.
24. When Mrs. Ray came back to work, she was told that she could not perform her job.
25. On June 14, 2022, Mrs. Ray was terminated by ELS.

COUNT I – VIOLATION OF THE FAIR LABOR STANDARDS ACT

26. Mrs. Ray realleges and incorporates all allegations above as if actually set forth herein.
27. Plaintiff was an employee of Defendant

28. At all relevant times, Defendant ELS, LLC. was an “employer” engaged in “commerce” within the meaning of the FLSA, 29 U.S.C. § 203(s)(1).
29. At all relevant times, Defendant “employed” Mrs. Ray within the meaning of the FLSA, 29 U.S.C. § 203 (e)-(g).
30. The FLSA requires each covered employer, including Defendants, to compensate all non-exempt employees at a rate of not less than one and one-half the regular rate of pay for work performed in excess of forty hours in a work week. 29 U.S.C. § 207(a)(1).
31. At all relevant times, Mrs. Ray was a non-exempt employee within the meaning of the FLSA, 29 U.S.C. § 213.
32. At all relevant times, Mrs. Ray was entitled to an overtime premium at a rate of not less than one and one half his regular rate of pay for work performed in excess of forty hours in a work week.
33. For the duration of Mrs. Ray’s employment, Defendants willfully failed and refused to pay Mrs. Ray an overtime premium for all hours worked over forty in any given workweek.
34. As a result of Defendant’s failure to compensate Mrs. Ray at a rate of not less than one and one-half times the regular rate of pay for all work performed in excess of forty hours in a work week, Defendants have violated the FLSA, 29 U.S.C. § 207(a)(1).
35. The foregoing conduct, as alleged, fails to meet the standard of good faith compliance within the FLSA within the meaning of 29 U.S.C. § 260.
36. The willfulness and bad faith of Defendant’s conduct are evident from its response to Mrs. Ray’s complaint about not getting paid an overtime premium, when Defendant

stated that she wasn't getting paid overtime because she was on salary, even though it knew that Ms. Ray's job duties did not qualify her for an exemption under the FLSA.

PRAYER FOR RELIEF

WHEREFORE, Christina Ray prays for relief as follows:

1. A declaratory judgement that the practices complained of herein are unlawful under the FLSA;
2. Pre-judgement interest, as provided by law;
3. An award of money damages for unpaid wages, including liquidated damages, in an amount to be determined at trial;
4. An award of costs and expenses of this action incurred herein, including reasonable attorneys' fees and expert fees;
5. Any and all such other and further legal and equitable relief as this Court deems necessary, just, and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action and claims with respect to which she has a right to jury trial.

Respectfully submitted,

s/Philip E. Oliphant
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DECLARATION AND VERIFICATION

I, **Christina Ray**, verify and declare that the facts stated in the foregoing Verified Complaint to the best of my knowledge and belief are true, and that the Complaint is not made out of levity or by collusion with the Defendant, but in sincerity and truth for the causes mentioned in the Complaint.



Christina Ray

Date: 08 / 09 / 2022



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VIEWED

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SIGNED

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The document has been completed.